

§ 501.31

PROCEDURES RELATING TO HEARING

§ 501.31 Written notice of determination required.

Whenever the WHD Administrator decides to assess a civil money penalty, to debar, to increase a surety bond, or to proceed administratively to enforce contractual obligations, or obligations under 8 U.S.C. 1188, 20 CFR part 655, subpart B, or the regulations in this part, including for the recovery of the monetary relief, the person against whom such action is taken shall be notified in writing of such determination.

§ 501.32 Contents of notice.

The notice required by § 501.31 shall:

(a) Set forth the determination of the WHD Administrator including the amount of any monetary relief due or actions necessary to fulfill a contractual obligation or obligations under 8 U.S.C. 1188, 20 CFR part 655, subpart B, or the regulations in this part, the amount of any civil money penalty assessment, whether debarment is sought and the term, and any change in the amount of the surety bond, and the reason or reasons therefor.

(b) Set forth the right to request a hearing on such determination.

(c) Inform any affected person or persons that in the absence of a timely request for a hearing, the determination of the WHD Administrator shall become final and unappealable.

(d) Set forth the time and method for requesting a hearing, and the procedures relating thereto, as set forth in § 501.33.

§ 501.33 Request for hearing.

(a) Any person desiring review of a determination referred to in § 501.32, including judicial review, shall make a written request for an administrative hearing to the official who issued the determination at the WHD address appearing on the determination notice, no later than 30 days after the date of issuance of the notice referred to in § 501.32.

(b) No particular form is prescribed for any request for hearing permitted by this part. However, any such request shall:

(1) Be typewritten or legibly written;

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(2) Specify the issue or issues stated in the notice of determination giving rise to such request;

(3) State the specific reason or reasons why the person requesting the hearing believes such determination is in error;

(4) Be signed by the person making the request or by an authorized representative of such person; and

(5) Include the address at which such person or authorized representative desires to receive further communications relating thereto.

(c) The request for such hearing must be received by the official who issued the determination, at the WHD address appearing on the determination notice, within the time set forth in paragraph (a) of this section. Requests may be made by certified mail or by means normally assuring overnight delivery.

(d) The determination shall take effect on the start date identified in the written notice of determination, unless an administrative appeal is properly filed. The timely filing of an administrative appeal stays the determination pending the outcome of the appeal proceedings, provided that any surety bond remains in effect until the conclusion of any such proceedings.

RULES OF PRACTICE

§ 501.34 General.

(a) Except as specifically provided in the regulations in this part, the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges established by the Secretary at 29 CFR part 18 shall apply to administrative proceedings described in this part.

(b) As provided in the Administrative Procedure Act, 5 U.S.C. 556, any oral or documentary evidence may be received in proceedings under this part. The Federal Rules of Evidence and subpart B of the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges (29 CFR part 18, subpart B) will not apply, but principles designed to ensure production of relevant and probative evidence shall guide the admission of evidence. The ALJ may exclude evidence which is immaterial, irrelevant, or unduly repetitive.